

REMARKS

The following remarks are offered in response to the Office Action of December 14, 2004. Reconsideration and a Notice of Allowance is respectfully requested.

Objections to Drawings, Specification and Claims 1-66

In the Office Action, the drawings were objected to as failing to show the recited first, second, third, fourth and fifth elastomeric lips. The specification was also objected to as not providing proper antecedent basis for these recited terms. Finally, claims 1-66 were objected to for the same reasons.

Applicant respectfully disagrees with these objections. For example, paragraph [0047] of the published application discusses a "main sealing lip 70" and paragraph [0025] makes clear that this lip is an "elastomeric, main sealing lip." Paragraph [0043] discusses a "perimeter lip 40" and paragraph [0021] makes clear that this lip is an "elastomeric perimeter lip." Paragraph [0043] discusses two "face lips 36" and paragraph [0020] makes clear that these lips are "elastomeric face lips." Paragraph [0048] discusses a "mid-sleeve dust lip 75," a "forward sleeve dust lip 76," and a "case flange dust lip 77." Paragraph [0048] goes on to state that the "elastomeric coating 56, the main sealing lip 70" and the dust lips 75, 76, 77 can be "integrally formed ... in a single injection molding operation." Thus, at least seven "elastomeric lips" are discussed in the specification and specifically identified in Figure 1 by reference numbers. Also, the abstract discusses elastomeric lips and U.S. Patent 6,186,507, which was the original application from which the current pending application claims priority, issued with three independent claims reciting elastomeric lips.

For at least these reasons, Applicant respectfully asserts that (1) the drawings show "elastomeric lips," (2) the specification provides proper antecedent basis for "elastomeric lips," and, as a result, (3) the claims are not inconsistent with the specification and drawings. Accordingly, Applicant respectfully requests that the aforementioned rejections be reconsidered and withdrawn.

Claim Rejections – 35 USC 112

In the Office Action, claims 1-66 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

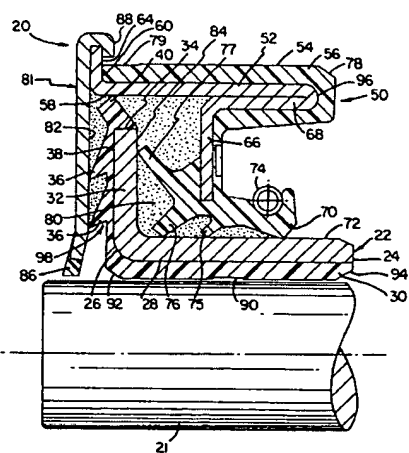
applicant regards as the invention. Applicant offers the following remarks regarding this rejection.

A. *Claims 1, 5-6, 10-11, 15, 17, 22, 24, 27, 29, 39-40, 44-45, 49 and 51.*

Claims 1, 5-6, 10-11, 15, 17, 22, 24, 27, 29, 39-40, 44-45, 49 and 51 were cited in the Office Action as having indefiniteness issues. Specifically, the phrases “generally radially inward” (from lines 8-9 of claim 1) and “generally radially outward” (from line 11 of claim 1) were identified as being indefinite. The Office Action inquires, “generally radially inward and outward to what other structure?”

Applicant respectfully asserts that the required prima facie case of indefiniteness has not been established in the Office Action. No explanation has been offered as to why the claim language does not define Applicant’s invention with “a reasonable degree of particularity and distinctness” when one of ordinary skill in the art “consider[s] the claim as a whole” and “in light of the content of the particular application disclosure.” MPEP 2173.02 Applicant respectfully submits that the failure to establish a prima facie case of indefiniteness is sufficient reason for the indefiniteness rejections to be withdrawn.

Applicant respectfully asserts that the language in question is not indefinite when considered with the claim as a whole and in light the application’s disclosure. For example, claim 1 clearly establishes the relationship and orientation of the first flange and the face plate relative to each other, the shaft, and the rest of the seal when claim 1 recites that the “first flange extend[s] generally radially outward from the sleeve” and the “faceplate extends generally radially inward from the housing.” Referring to FIG. 1 of the application, which is provided below, one can clearly see how this quoted language corresponds to the sleeve flange 32 and the face plate 81 discussed in detail in the specification.



Claim 1 goes on to state that the “first elastomeric lip extend[s] generally between a portion of the first flange and a portion of the faceplate and includes a base and a tip.” The face lips 36, which are discussed in detail in the specification, are the only elastomeric lips of the seal depicted in FIG. 1 that extend between the first flange and the face plate and include a base and tip.

Claim 1 further states that the “tip [of the elastomeric lip] is oriented generally radially inward.” As is clear from FIG. 1, the tip of each face lip 36 is oriented radially inward. Thus, it is clear that the language “generally radially inward” is not indefinite when considered with claim 1 as a whole and in light of the application’s disclosure.

With respect to the language “generally radially outward,” claim 1 clearly establishes: (1) the second flange’s relationship to the rest of the seal and the shaft; and (2) that the “second elastomeric lip includ[es] a base secured to the second flange and a tip [that is] displaceable against the sleeve [and] oriented generally radially outward.” Thus, it is clear that the language “generally radially outward” is not indefinite when considered with claim 1 as a whole, much less in light of the application’s disclosure.

Similar analyses can be applied to the language in question in claims 5, 6, 10, 11 and 15 which all recite third, fourth or fifth elastomeric lips that “includ[e] a base secured to the second flange and a tip [that is] displaceable against the sleeve” and oriented in a certain direction (e.g., axially inward, outward or a combination thereof).

These types of analyses can also be made with respect to claims 17, 22, 24, 27, 29, 39-40, 44-45, 49 and 51. The fact that these claims recite that a claim element may be oriented generally radially inward or outward (i.e., generally towards or away from the shaft) or generally axially inward or outward (i.e., generally towards or away from the sealed area of the shaft) does not make the claims indefinite when considered as a whole, much less in view of the application’s disclosure.

Thus, when considering each claim as a whole and in light of the application’s disclosure, it is clear that each claim defines the recited invention with more than “a reasonable degree of particularity and distinctness.” MPEP 2173.02 Accordingly, Applicant respectfully requests reconsideration and withdrawal of the indefiniteness rejections of claims 1-51.

B. Claims 52-66.

Other than stating that claims 1, 5-6, 10-11, 15, 17, 22, 24, 27, 29, 39-40, 44-45, 49 and 51 should contain language similar to that found in independent claim 52, the indefiniteness rejection made no mention regarding independent claims 52 or 63 or any of their respective dependent claims. A prima facie case of indefiniteness has not been established with respect to

claims 52-66. Applicant can only assume that the indefiniteness rejection of claims 52-66 was inadvertent. Consequently, Applicant respectfully requests that the indefiniteness rejection of claims 52-66 be withdrawn.

Double Patenting

The Office Action rejected claims 1-66 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of US 6,726,212, claims 1-41 of US 6,406,206, claims 1-9 of US 6,315,296, claims 1-19 of US 6,186,507 and claims 1-18 of US 6,464,228 in view of Tajima et al (US 5,975,534).

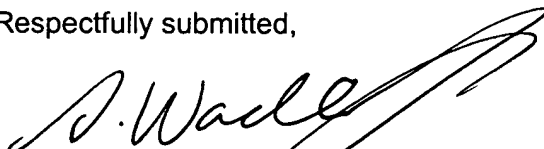
To overcome the double patenting rejection, Applicant is filing a terminal disclaimer which accompanies this communication. Reconsideration and withdrawal of the double patenting rejection is respectfully requested.

This Amendment is submitted contemporaneously with a petition for a one-month extension of time in accordance with 37 C.F.R. § 1.136(a) and a terminal disclaimer in accordance with 37 C.F.R. § 1.321. Accordingly, please charge Deposit Account No. 04-1415 in the amount of \$250.00 (\$120.00 for one-month extension of time fee and \$130.00 for terminal disclaimer fee). The Applicant believes no further fees or petitions are required. However, if any such petitions or fees are necessary, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 accordingly.

This application now stands in allowable form and reconsideration and allowance is respectfully requested.

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Respectfully submitted,



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